

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE ENROLLED ACT No. 1343

AN ACT concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 13-11-2-177.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 177.5. "Publicly owned treatment works", for purposes of IC 13-18-3, has the meaning set forth in 327 IAC 5-1.5-48.**

SECTION 2. IC 13-11-2-242.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 242.3. "Upset", for purposes of IC 13-18-12-8, means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee, and does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.**

SECTION 3. IC 13-18-12-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) If a publicly owned treatment works permittee:**

(1) determines that an upset has occurred in the publicly



owned treatment works that is likely to pose a threat to human or animal life; or

(2) has knowledge of an imminent threat from a chemical or other release to the collection system that is likely to cause an upset in the publicly owned treatment works that is likely to pose a threat to human or animal life;

the permittee shall notify emergency response personnel of the department not more than two (2) hours after the determination under subdivision (1) or the acquisition of knowledge of an imminent threat under subdivision (2).

(b) If the department receives notification from a publicly owned treatment works permittee under subsection (a), the department:

(1) must notify all appropriate state and local government agencies;

(2) may provide technical assistance to the publicly owned treatment works as the department determines is necessary; and

(3) must, if the department determines that there is or may be a threat to human health or animal life, notify the affected news media;

not more than forty-eight (48) hours after receiving the notification under subsection (a).

SECTION 4. IC 13-30-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who intentionally, knowingly, or recklessly violates:

(1) environmental management laws;

(2) air pollution control laws;

(3) water pollution control laws;

(4) a rule or standard adopted by one (1) of the boards; or

(5) a determination, a permit, or an order made or issued by the commissioner under environmental management laws or IC 13-7 (before its repeal);

commits a Class D felony.

(b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section (or IC 13-7-13-3(a) before its repeal) may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be punished by:

(1) a fine of not less than ~~two five thousand five hundred~~ dollars (~~\$2,500~~) (**\$5,000**) and not more than ~~twenty-five fifty~~ thousand dollars (~~\$25,000~~) (**\$50,000**) per day of violation; or

(2) if the conviction is for a violation committed after a first

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conviction of the person under this section (or IC 13-7-13-3(a) before its repeal), a fine of not more than **fifty one hundred thousand dollars** (~~\$50,000~~) (**\$100,000**) per day of violation.

SECTION 5. IC 13-30-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A person who knowingly:

- (1) transports any hazardous waste to a facility that does not have an operation permit or approval to accept the waste;
- (2) disposes, treats, or stores any hazardous waste without having obtained a permit for the waste; or
- (3) makes a false statement or representation in an application, a label, a manifest, a record, a report, a permit, or other document filed, maintained, or used under environmental management laws with regard to hazardous waste;

commits a Class D felony.

(b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be punished by:

- (1) a fine of **not less than two thousand five hundred dollars (\$2,500) and** not more than ~~twenty-five~~ **fifty** thousand dollars (~~\$25,000~~) (**\$50,000**) for each day of violation; or
- (2) if the conviction is for a violation committed after a first conviction of the person under this section, IC 13-30-6-1, IC 13-30-6-2, or IC 13-7-13-3 (before its repeal), a fine of not more than **fifty one hundred thousand dollars** (~~\$50,000~~) (**\$100,000**) per day of violation.

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "department" refers to the department of environmental management.**

(b) **The department shall prepare a report that includes the following:**

- (1) **A comprehensive and detailed report that:**
 - (A) **describes plans for restoration of the White River; and**
 - (B) **sets forth the department's recommendations for changes in statutes, rules, or procedures and practices of the department to:**
 - (i) **reduce the probability of contamination events; and**
 - (ii) **improve the timeliness and efficiency of protocols and procedures for notice to affected entities if such an event occurs in the future.**
- (2) **A complete list of all events of contamination of waters of the state after December 31, 1994, in which fish or other**



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aquatic species were killed and in which civil penalties were imposed under IC 13-30-4 (or under the law that governed the imposition of civil penalties before the enactment of IC 13-30-4), including the following:

- (A) A description of the contamination event.
- (B) The date the contamination event occurred.
- (C) The entity on which the civil penalty was imposed.
- (D) The total amount of the civil penalty imposed.

(c) Before November 30, 2000, the department shall deliver the report described in subsection (b) to:

- (1) the executive director of the legislative services agency for distribution to members of the legislative council;
- (2) the environmental quality service council;
- (3) the governor; and
- (4) the lieutenant governor.

(d) The environmental quality service council shall:

- (1) study the report delivered to it under subsection (c); and
- (2) make recommendations to the general assembly before January 1, 2002.

SECTION 7. [EFFECTIVE UPON PASSAGE] 326 IAC 2-1.1-3(b) is void.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) A reference in this SECTION to a provision of the Indiana Administrative Code or Code of Federal Regulations includes a reference to a successor provision.

(b) "Construction" has the meaning set forth in 326 IAC 1-2-21.

(c) "Modification" has the meaning set forth in 326 IAC 1-2-42.

(d) "Operation" has the meaning set forth in 326 IAC 2-1.1-1(11).

(e) "Process" has the meaning set forth in 326 IAC 2-1.1-1(17).

(f) "Regulated pollutant" has the meaning set forth in 326 IAC 1-2-66.

(g) Where a rule of the air pollution control board lists emission units, operations, or processes of which construction or modification are exempt from the requirement to obtain a registration, permit, modification approval, or permit revision, the air pollution control board may not condition such exemption on whether the potential to emit any regulated pollutant from the construction or modification exceeds an emission threshold establishing the requirement to obtain a registration, permit, modification approval, or permit revision under 326 IAC 2.

(h) This SECTION does not apply to construction or



modification:

- (1) subject to federal prevention of significant deterioration requirements as set out in 326 IAC 2-2 and 40 CFR 52.21;
- (2) subject to nonattainment new source review requirements as set out in 326 IAC 2-3;
- (3) at a source that has an operation permit issued under 326 IAC 2-7, where the construction or modification would be considered a Title I modification under 40 CFR Part 70; or
- (4) that would result in the source needing to make a transition to an operating permit issued under 326 IAC 2-6.1, 326 IAC 2-7, or 326 IAC 2-8.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Before January 1, 2002, the air pollution control board shall amend 326 IAC 2-1.1-3 to reflect SECTION 7 of this act.

(b) This SECTION expires on the earlier of the following:

- (1) The effective date of the rule amendment adopted under subsection (a).
- (2) January 1, 2002.

SECTION 10. An emergency is declared for this act.

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